

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KAKHA ABULADZE, et al.,

Plaintiffs,

-v-

APPLE COMMUTER, INC., et al.,

Defendants.

CIVIL ACTION NO.:
22 Civ. 08684 (GHW) (RFT)

ORDER

ROBYN F. TARNOFSKY, United States Magistrate Judge.

On November 29, 2023, I ordered Plaintiffs to show cause why the claims against Defendants Millennium Hilton, Hilton Manhattan/Westgate, Hilton Garden Inn (52) and Hilton Garden Inn (54) should not be dismissed without prejudice (*see* ECF 68); they were instructed to do so by filing an affidavit or declaration specifying which of the Defendants with Hilton in their names is meant in each instance in which “Hilton” or “Hilton Garden Inn” is listed in the Second Amended Complaint (“SAC”), including in the spreadsheets within the SAC.

On December 18, 2023, Plaintiffs responded by filing a declaration providing the requested information about Defendants Hilton Manhattan/Westgate, Hilton Garden Inn (52) and Hilton Garden Inn (54) and stating that Exhibit 3 to the declaration was a Notice of Voluntary Dismissal of Defendant Millennium Hilton. (ECF 74, 12/18/23 Decl. of Vano Haroutunian.) However, the filing did not contain such a Notice of Voluntary Dismissal (the filing included only Exhibits 1 and 2, neither of which was a Notice of Voluntary Dismissal). Accordingly, if Plaintiffs wish to dismiss Defendant Millennium Hilton voluntarily, they are ORDERED to file on the docket by **December 22, 2023**, a Notice of Voluntary Dismissal of

Defendant Millennium Hilton. Such notice should state whether there has been a settlement between Plaintiffs and Defendant Millennium Hilton. *See Samake v. Thunder Lube, Inc.*, 24 F.4th 804, 811 (2d Cir. 2022) (“[I]n the absence of a settlement, the notice of dismissal should be so-ordered.”); *see also Morales v. Next Stop 2006 Inc.*, No. 22-CV-3311 (JLR) (JLC), 2022 WL 17348382, at *2 (S.D.N.Y. Dec. 1, 2022) (finding *Cheeks* review unnecessary in Rule 41(a)(1) dismissal where the parties neither settled nor “raised concerns of a covert settlement”), *report and recommendation adopted*, 2022 WL 17811401 (S.D.N.Y. Dec. 19, 2022).

Dated: New York, New York
December 19, 2023

SO ORDERED.



ROBYN F. TARNOFSKY
UNITED STATES MAGISTRATE JUDGE